

## **RULES OF PROCEDURE OF THE PLANNING COMMISSION OF THE CITY OF ANNAPOLIS**

### **I. Introduction**

1.1 These Rules are issued as a guide to assist the City of Annapolis Planning Commission in the orderly and efficient conduct of all matters which it considers by law or custom so as to effectively exercise its powers and duties set forth in the applicable sections of the Maryland Annotated Code, Land Use Article, formerly Article 66B, as amended by Chapter 426, Acts 2012 ("Land Use Article"), and the Charter and Code of the City of Annapolis ("Annapolis City Code"). These Rules supplement the applicable provisions of the Land Use Article and Annapolis City Code which pertain to the Planning Commission.

### **II. Policy**

2.1 It is the policy of the Planning Commission to preserve and promote fairness and public confidence and trust in all proceedings which the Planning Commission conducts.

### **III. Members of the Planning Commission**

3.1 The Planning Commission shall consist of 7 members appointed by the Mayor and confirmed by the City Council.

3.2 The term of each member of the Planning Commission is 5 years or until the member is reappointed or a successor takes office after the expiration of a term.

3.3 Members may be reappointed for 5 year terms.

3.4 Vacancies shall be filled by the Mayor confirmed by the City Council for the unexpired term of any member whose term becomes vacant for any reason.

3.5 The absence of any member of the Planning Commission for 3 consecutive meetings or his or her absence for more than 4 meetings within one calendar year, without sufficient reason as determined by the Planning Commission, shall constitute cause for purposes of removal.

3.6 All members of the Planning Commission shall be residents of the City of Annapolis.

3.7 The members of the Planning Commission shall serve without compensation.

### **IV. Chairperson and Vice Chairperson**

4.1 There shall be a Chairperson and Vice Chairperson of the Planning Commission.

4.2 At its first meeting in January each year, the Planning Commission shall elect a Chairperson and Vice Chairperson from the appointed membership to serve a term of one year.

4.3 No person shall hold the office of Chairperson or Vice Chairperson in excess of 2 consecutive terms.

4.4 The Chairperson shall preside at hearings, meetings and work sessions of the Planning Commission, administer oaths, decide all points of order and procedure, and may compel the attendance of witnesses by subpoena and call special meetings in accordance with these Rules.

4.5 The Chairperson shall have the duties customarily conferred upon a Presiding Officer.

4.6 The Vice Chairperson shall preside in the absence of the Chairperson and shall assume all the powers of the Chairperson.

4.7 The Planning Commission shall elect one of its members to fill the position of Chairperson or Vice Chairperson at the expiration of their terms or in the event of resignation or removal.

#### **V. Administrative Duties**

5.1 The Planning Commission delegates to the Planning and Zoning Director the responsibility to designate Planning and Zoning staff to:

- a. Receive all applications, correspondence and other materials and communications materials to be submitted to the Planning Commission;
- b. Regularly furnish to members of the Planning Commission a roster of pending applications and the identity of the applicants.
- c. Prepare an agenda for each meeting in consultation with the Chairperson and submit it to the Planning Commission members at least 7 days prior to the meeting;
- d. Provide notice of all public meetings and hearings in accordance with the notice requirements of the Land Use Article and Annapolis City Code;
- e. Provide Planning and Zoning staff reports and other briefing materials to Planning Commission members at least 7 days in advance of the meeting to which they apply, and make all such reports and briefing materials available to the public at least 7 days in advance of the meeting to which they apply. The staff report shall contain the analysis, findings, recommendations of the Planning and Zoning staff and other pertinent information pertaining to an application or agenda item. The briefing materials shall contain applications, exhibits, correspondence from the public, and other papers relating to each application or agenda item. Members of the public who wish to submit materials for advance distribution to the Planning Commission shall submit those materials to Planning and Zoning staff at least 10 days in advance of the application to which they apply. The Chairperson shall have the authority to accept proffered materials into the record at or before the application is heard by the Planning Commission.
- f. Keep a record of the proceedings of the Planning Commission;
- g. Serve as custodian of the records of the Planning Commission;
- h. Provide notice of Planning Commission actions.

#### **VI. Ethics, Conflicts of Interest and Ex Parte Communications**

6.1 Members of the Planning Commission shall disclose any actual, apparent or potential conflict of interest pertaining to any application or other matter before the Planning Commission.

6.2 Members of the Planning Commission shall comply with the Maryland Public Ethics Law, the Land Use Article, the

Annapolis City Code, and decisions of the City of Annapolis Ethics Commission.

6.3 Members of the Planning Commission shall not have communications with applicants and other persons during the pendency of any matter before the Planning Commission which could influence their decision on that matter.

6.4 If the Planning Commission finds that an applicant or any other person interested in a pending application or other pending matter has intentionally communicated or attempted to communicate with a member of the Planning Commission in violation of these Rules, the Planning Commission may impose an appropriate sanction, which may include (a) in the event of a violation by an applicant, denial or deferral of Planning Commission action concerning the application for up to 6 months, (b) in the event of a violation by any other person, exclusion of that person's testimony from the record of the application or other pending matter to which the prohibited communication relates, and/or (c) mandatory recusal of the member of the Planning Commission who was offered and accepted a prohibited communication from consideration of and voting on the application or other pending matter.

6.5 If a member of the Planning Commission receives an unsolicited communication about a pending application or other matter outside of a Planning Commission meeting, he or she shall return or refuse any such communication, advise the sender of the communication of these Rules, and disclose and describe the communication to the Planning Commission, indicating by whom it was sent, at the earliest opportunity before or during the Planning Commission's consideration of the application or other pending matter.

6.6 Subject only to the applicable provisions of the Annotated Code of Maryland, State Government Article, Section 10-611 et seq., ("Open Meetings Act"), nothing in these Rules restricts any member of the Planning Commission from communicating with any other members of the Planning Commission, Planning Staff member, or Planning Commission legal counsel, for the purpose of obtaining information or advice.

6.7 No member shall vote on a matter in which he or she has personal financial interest or other conflict of interest or ethical concern.

## **VII. Quorum and Voting**

7.1 The Planning Commission shall not conduct business at a public meeting unless a quorum of the membership is present and voting.

7.2 Four members of the Planning Commission shall constitute a quorum for the transaction of business.

7.3 Decisions on any application or other matter before the Planning Commission shall require the affirmative vote of a majority of the quorum. Failure to achieve the necessary votes shall constitute a denial.

7.4 Voting shall be by verbal vote, roll call, or show of hands at the discretion of the Chairperson, with the Chairperson voting last.

## **VIII. Public Meetings**

8.1 All public meetings shall be conducted in accordance with the Maryland Open Meetings Act and shall be public and open, except that closed sessions may be held for the purposes set forth in the Maryland Open Meetings Act and for certain deliberations as permitted by law.

8.2 The regular monthly public meeting of the Planning Commission shall be held on the first Thursday of each month.

- 8.3 The Planning Commission shall hold at least one public meeting per month unless, after consultation with Planning and Zoning staff, the Planning Commission determines that a meeting is not necessary.
- 8.4 The Planning Commission, in consultation with Planning and Zoning staff, shall determine the number of public meetings per month based upon the number of pending applications and other matters that may come before the Planning Commission.
- 8.5 Applications and other matters shall be placed on the agenda of the Planning Commission within a reasonable time following final Planning and Zoning staff review.
- 8.6 Applications and other matters submitted to the Planning and Zoning staff less than 2 weeks prior to the next public meeting shall not be placed on the agenda for that meeting except with the approval of the Planning Commission.
- 8.7 There shall be notice of all public meetings in accordance with the notice requirements of the Annapolis City Code and the Open Meetings Act.
- 8.8 The Planning Commission agenda shall be posted in City Hall and on the City of Annapolis web site for a reasonable time prior to a public meeting.
- 8.9 Meetings of the Planning Commission shall be held in City Hall or such other public place as determined by the Planning Commission.
- 8.10 Meetings of the Planning Commission shall begin at 7:00 p.m.
- 8.11 No new agenda item shall commence after 10:00 p.m., unless authorized by two-thirds of the members of the Planning Commission present. Any agenda item not started by 10:00 p.m., unless authorized to commence, shall be moved to the agenda of the next public meeting of the Planning Commission.
- 8.12 The Chairperson may call a special meeting of the Planning Commission.
- 8.13 The Chairperson shall schedule a special meeting of the Planning Commission at the request of 2 or more members of the Planning Commission, the Mayor or the City Council.
- 8.14 All special meetings shall be scheduled within 10 days of the Chairperson's decision to call a special meeting or within 10 days of a request by 2 or more members of the Planning Commission, the Mayor or the City Council.
- 8.15 Following at least 24 hours notice to each member of the Planning Commission and reasonable public notice, a special meeting may be called by the Chairperson, a majority of the members of the Planning Commission, or upon request of the Mayor and City Council.
- 8.16 If there is a need at a public meeting to continue any agenda item for any reason, the Chairperson shall place on the record at the meeting the time and day to when it shall be continued, and no further notice of the continued agenda item shall be required. If the Chairman fails to do so, notice in accordance with the notice requirements of the Annapolis City Code shall be followed.
- 8.17 If a public meeting is cancelled because of inclement weather or an emergency, the Planning and Zoning staff shall, to the extent reasonably possible given the nature of the inclement weather or emergency, place

notification of cancellation on the door of the meeting place and cause notice of cancellation to be posted on a local cable television City government channel or the City website.

8.18 Any member of the Planning Commission who has knowledge of the fact that he or she will not be able to attend a public meeting of the Planning Commission shall notify the Planning and Zoning Director and the Chairperson at the earliest possible opportunity, unless extenuating circumstances do not permit.

8.19 The general order of business at public meetings shall be as follows, but may vary from time to time at the discretion of the Chairperson:

- Call to order;
- Roll call;
- Approval of agenda;
- Approval of minutes;
- Presentation of matters for Planning Commission action;
- Unfinished business;
- New business;
- Communications;
- Adjournment.

8.20 Robert's Rules of Order shall be the parliamentary authority of the Planning Commission at public meetings, except where superseded by law or by these Rules.

#### **IX. Public Hearings**

9.1 The Planning Commission shall hold public hearings as required by law and when it deems a public hearing to be in the public interest.

9.2 Applications shall be made on forms provided by the Department of Planning and Zoning.

9.3 If an applicant is not the owner of record of the property to which an application applies, at least one owner of record shall sign the application indicating consent to the application.

9.4 An applicant may appear at a public hearing in person or by agent or attorney. If an applicant or his or her agent or attorney fails to appear, the application shall be continued to the agenda for the next public meeting. If an applicant or his or her agent or attorney does not appear at the next public meeting, the Chairperson, in his or her discretion, may dismiss the application without prejudice. An applicant or his or her agent or attorney who contacts the Department of Planning and Zoning before the public hearing advising they will appear later than 7:00 p.m. may have their application moved to the end of the agenda.

9.5 Applications shall be heard in the following manner:

- a. Call of the case by the Chairperson;
- b. Planning and Zoning staff presents provides a summary of the application, the issues that Planning and Zoning staff addressed during review, whether Planning and Zoning staff recommends approval and, if so, any conditions of approval, and any other relevant information;
- c. The applicant or his or her agent or attorney shall present the application and indicate whether the conditions of

approval are acceptable;

d. Comments from members of the public for and against the application. All those who speak shall do so at the podium and shall provide their name and address, state their interest in the application, identify any person or entity they represent and the basis of their representation, and limit their comments to factors relevant to the specific application. An applicant may not directly question a testifying member of the public. An applicant may ask the Chairperson to conduct appropriate inquiry of any member of the public.

e. Rebuttal by the applicant or his or her his agent or attorney;

f. Planning and Zoning staff closing statement;

g. Deliberations by the Planning Commission;

h. Planning Commission's action after deliberations.

9.6 The rules of evidence which govern the courts of Maryland shall apply generally to a public hearing, but the Chairperson may relax application of the rules of evidence as in his or her judgment fairness requires.

9.7 The Chairperson shall conduct a public hearing in a manner best calculated to afford an applicant an opportunity to fully present their cases, and in a manner which allows members of the public to address relevant matters.

9.8 The Chairperson has broad discretion to conduct a public hearing in a manner that permits the development of a complete administrative record, provides a reasonable opportunity for interested persons to be heard on relevant matters, and keeps the hearing moving in an orderly fashion.

9.9 The Chairperson may make such rulings as may be necessary to conduct a public hearing in an efficient and orderly manner including, but not limited to, imposing reasonable time limitations on testimony and arguments and excluding irrelevant, repetitive, or unreliable evidence.

9.10 Witnesses at a public hearing shall testify under oath whenever required to do so by the Chairperson.

9.11 Members of the Planning Commission may, at a public hearing, ask questions of the Planning and Zoning staff, an applicant or an applicant's witnesses, and members of the public who address the Planning Commission.

9.12 If any member of the public wishes to bring to the Planning Commission's attention at a public hearing any professional studies, analyses or other such documents, that person shall submit such documents to the Department of Planning and Zoning at least 14 days in advance of the date of the public hearing.

9.13 An applicant and Planning and Zoning staff may ask questions of each other.

9.14 An applicant has the burden of proof with respect to his or her application, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact to be determined by the Planning Commission.

9.15 The Chairperson may enter into evidence as an exhibit any picture, drawing, petition, letter, or other evidence presented in the course of a public hearing on an application. All such shall be submitted in a format that can be stored in the application file maintained in the Department of Planning and Zoning. All site plans, drawings, pictures and other documents shall be folded to a maximum size of 9" x 14."

9.16 The Planning Commission shall have the authority to engage its own experts to advise it on matters of interest to it and applications before it. The Department of Planning & Zoning shall pay reasonable fees required under this authority.

9.17 Upon conclusion of a public hearing, the Planning Commission shall deliberate, either at the time or, if necessary in the discretion of the Chairperson, at the next public meeting of the Planning Commission, and then vote to approve or deny an application. A tie vote or failure to receive a majority vote for approval constitutes denial.

9.18 An approved application may be subject to conditions the Planning Commission deems necessary.

9.19 The Planning Commission shall issue a written Opinion and Order within forty-five days after the conclusion of the public hearing and deliberations and vote on an application, unless the Chairperson determines that more time is necessary to do so, in which case the Chairperson shall designate a later date for issuance of the Opinion and Order. The Opinion and Order shall summarize the evidence and shall state findings of fact, the vote of the Planning Commission, any conditions the Planning Commission imposes for approval, and any discussion that the Planning Commission deems necessary to explain, and shall be signed by the Planning Commission members who heard the application.

9.20 For those items on which the Planning Commission acts in an advisory capacity to another decision-making body, the Planning Commission shall issue a written memorandum stating a recommendation to the appropriate decision-making body. The memorandum shall state findings of fact, the vote of the Planning Commission, any conditions the Planning Commission recommends, and any discussion that the Planning Commission deems important to explain, and shall be signed by members of the Planning Commission who heard the matter.

9.21 No member of the Planning Commission shall vote on an application or other matter unless he or she has attended the public hearing on the application or other matter or listened to a tape of the public hearing and reviewed the evidence presented at the public hearing.

9.22 The Chairperson shall designate a member of the Planning Commission or its attorney to write an Opinion and Order or Memorandum. The Opinion and Order or Memorandum shall be placed on the next regular meeting agenda of the Planning Commission after the Opinion and Order or Memorandum is prepared, and the Planning Commission shall approve the Opinion and Order or Memorandum as written or with revisions by a majority vote of those members who participated in the application or other matter.

9.23 The Department of Planning and Zoning shall provide a copy of any Opinion and Order to the applicant or appellant or Memorandum to the appropriate decision making body.

9.24 At any time and without prior notice or hearing, on its own initiative or on motion of any party, the Planning Commission may modify its Opinion and Order to correct a clerical error.

9.25 An applicant may withdraw an application at any time before the Planning Commission begins voting on the application.

9.26 The Planning Commission may postpone a public hearing on motion of an applicant or on the Planning Commission's own motion.

9.27 The Planning Commission, on its own motion or on motion of an applicant, may defer action on an application to another date if it determines that it is reasonable to do so.

## **X. Minutes**

- 10.1 The Department of Planning and Zoning shall keep and maintain an accurate record of all proceedings before the Planning Commission.
- 10.2 There shall be an audio tape recording of all proceedings before the Planning Commission, except those conducted in a closed session.
- 10.3 An audio tape recording of a proceeding before the Planning Commission may be accepted as an official record.
- 10.4 Minutes of all proceedings before the Planning Commission, except those conducted in closed session, shall be prepared and distributed to the members of the Planning Commission, who shall vote to approve or revise and then approve.
- 10.5 Closed sessions shall be recorded in the minutes of the Planning Commission only as having been held.

## **XI. On-Site Inspections**

- 11.1 The Planning Commission shall adhere to the requirements of Maryland law for the conduct of on-site inspections of property which is the subject of an application before the Planning Commission.

## **XII. Reconsideration**

- 12.1 The Planning Commission may reconsider its decision on an application when there is a clear showing that the action of the Planning Commission on the application did not conform to relevant law or these Rules or that the action resulted from an irregularity, clerical error, or fraud.
- 12.2 The Planning Commission may reconsider its decision on an application when there is a clear showing that certain pertinent and significant new evidence relevant to the Planning Commission's decision on the application could not reasonably have been discovered by an applicant in advance of the public hearing before the Planning Commission and the applicant made a reasonable effort to discover the evidence in advance of the public hearing.
- 12.3 The Planning Commission may reconsider its decision on an application for any other compelling reason or for other good cause shown as determined by the Planning Commission.
- 12.4 The Planning Commission may reconsider a decision on an application on its own motion for any reason, provided that such motion is made and approved no later than the Planning Commission's next meeting following the date when the original decision was made.
- 12.5 No later than 10 days after the date of the issuance of an Opinion and Order, an applicant may file a written request for reconsideration of a decision of the Planning Commission. The request shall state fully all grounds for reconsideration and shall be filed with the Department of Planning and Zoning, either personally or by first class mail, postage prepaid. If by mail, the request, to be considered timely, shall be received by the Department of Planning and Zoning within the 10 day period. The Planning Commission may excuse late filings for a compelling reason or for other good cause shown.
- 12.6 An applicant shall, by first class mail, postage prepaid, serve a copy of a request for reconsideration on all persons who were parties at the public hearing on the application. The request for reconsideration shall contain a certificate of service to this effect.



12.7 The Planning Commission shall hold a public hearing on a request for reconsideration. The Planning Commission may question Planning and Zoning staff or the applicant, take testimony, and receive documents into evidence.

12.8 If the Planning Commission grants a request for reconsideration, or on its own motion decides to reconsider an application, it shall schedule a public hearing only on the matters to be reconsidered.

12.9 The Planning and Zoning staff shall give notice of the public hearing to all members of the general public who became parties at the public hearing on the application at least 15 days in advance of the hearing.

12.10 The Planning Commission shall issue an Opinion and Order either granting or denying a request for reconsideration in conformity with Rule 9.19 of these Rules.

12.11 The filing of a request for reconsideration, or the Planning Commission's own motion for reconsideration, and any action of the Planning Commission thereon, shall not toll the period to note an appeal from the original Opinion and Order of the Planning Commission on the application.

### **XIII. Work Sessions**

13.1 The Planning and Zoning staff shall inform the Planning Commission of a request for a work session on a proposed application.

13.2 The Planning Commission may grant a request for a work session to elicit, in an informal setting, ideas and suggestions related to a proposed application.

13.3 The Planning Commission shall make no decisions or binding commitments at a work session.

13.4 Members of the public may attend a work session to observe only, unless the Chairperson decides to allow members of the public to comment. In that event, the Chairperson may place reasonable limits on public comment.

13.5 Work sessions shall not be conducted as public hearings.

13.7 Work sessions shall be recorded in the minutes of the Planning Commission only as having been held.

### **XIV. Amendments**

14.1 These Rules may be amended at any public hearing of the Planning Commission.

14.2 The Department of Planning and Zoning shall give public notice of proposed changes in these Rules.

### **XV. Rules Not Jurisdictional**

15.1 These Rules do not constitute jurisdictional requirements and do not confer rights or impose obligations not otherwise conferred or imposed by law.

15.2 The Planning Commission may excuse strict compliance with these Rules so as not to delay or prejudice an applicant from receiving a fair and valid decision or action of the Planning Commission.

### **XVI. Severability**

16.1 The provisions of these Rules are severable.

16.2 If any court of competent jurisdiction holds any provisions of the Rules invalid, the decision of such court shall not affect or impair any of the remaining provisions.

#### **XVII. Conflict**

17.1 Whenever any conflict occurs between the Annotated Code of Maryland and these Rules, the Annotated Code of Maryland shall govern.

17.2 Whenever any conflict occurs between the Annapolis City Code and these Rules, the Annapolis City Code shall govern.

#### **XVIII. Appeals**

18.1 Unless another method of review is provided in Title 21 of the Code of the City of Annapolis, any person aggrieved of a final adjudication of the Planning Commission on an application may appeal to the Circuit Court for Anne Arundel County.

18.2 Appeals to the Circuit Court for Anne Arundel County shall be taken according to the Maryland Rules of Procedure, Title 7.

#### **XIX. Effective Date**

19.1 These Rules shall be effective on the date of their adoption by a majority of the members of the Planning Commission.

19.2 A written copy of these Rules shall be filed with the Clerk of the City of Annapolis and the Secretary of Planning for the State of Maryland.

Adopted this 21 day of February, 2013

  
Dr. Eleanor M. Harris, ED.D, Chair